

Testimony of William C. Buhl, Retired Circuit Judge

House Criminal Justice Committee Hearing February 17, 2015

on HB 4069, HB 4135 and HB 4169

I testify from extensive experience - 6 year as a prosecutor, 14 as a district judge and 22 as a circuit judge. I am well versed in the Holmes Youthful Trainee Act and its history. I refused to accept assignment to Holmes status, with one rare exception, prior to January 1, 1994, because the law was badly written. The defendant could not plead guilty, and if the defendant violated the conditions of sentence, the defendant had the option of having a trial. P. A. 1993 No. 293 changed all that, and in my last 16 years as a circuit judge, I granted many requests for treatment under the statute.

HB 4069: I wholly endorse extending treatment under the Act to persons over 21, and would have liked to see the age extended to 26, as originally proposed. I don't really see the need, but have no objection to requiring prosecuting attorney approval for those considered for treatment under the Act if over 21 years of age.

My concern is in the unnecessary recitation of the court's powers to impose probationary conditions, and the legislative micro-management of supervision of assignees. Chapter 771 of the Code of Criminal Procedure gives judges broad discretion in the imposition of conditions of probation. Sections 4 and 5 of the amendment are totally unnecessary. It is ludicrous to recite that a judge may do what a judge is already authorized to do. I understand that this was probably done to appease those who originally wished to mandated those probationary conditions, but it is silly to say "the judge can do what the judge can do." To follow that with "agent, this is how you shall supervise the assignee," is ridiculous. Good agents will do that anyway. Poor agents will not, regardless of what the legislature tells them. I would recommend eliminating sections 4, 5 and 6. They are meaningless.

HB 4135: There can be many circumstances related to a violation of a criminal law. There can be many variables to when and how that relates to a probationary sentence. This amendment creates a long list of crimes which mandate revocation of a Holmes assignment, if the assignee is convicted of violating a listed crime. There is no need for this rigid restriction on judicial discretion. One size does not fit all, and this is exactly what this laundry list of forbidden crimes does to those assigned to Youthful Trainee status. I oppose the enactment of this proposed amendment.

HB 4169: This provision removes a prison sentence as one option under the Holmes Youthful Trainee Act. I do not understand the reasoning behind this proposal. I once thought the prison option was unlikely to be ever imposed by me, but through experience found that occasionally it seemed an appropriate sentence. I ended up using it several times. I was concerned as to how a prisoner “successfully” completed a sentence to prison, and discovered that the Department of Corrections did review the inmates conduct, and would recommend termination of Youthful Trainee status for misconduct. Some defendants because of their youth and immaturity committed crimes that cry out for more than a probationary sentence or a county jail term, but the individual still merits an opportunity to avoid a felony conviction. I would favor leaving prison as an option.